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*NEW YORK STATE BAR ADMISSION PENDING

February 3, 2009

Mr. Lance Abramson
Spoor & Fisher
P.O. Box 41312
Craighall, South Africa

Re: U.S. Patent Appln. S.N. 09/937,976
Your Ref.: PA 126894/US
Our Ref.: 0073/65994

Dear Lance:

We enclose a copy of a final Office Action dated January 21, 2009 which we received in the above-identified application.

As you can see, in spite of our previous discussion with the Examiner, he has maintained his rejections, relying on the same prior art. I believe this Examiner is way off base with his rejections. Accordingly, at this point, I suggest filing an appeal in this case and filing an appeal brief outlining our position.

We look forward to receiving your instructions in sufficient time to prepare and file our response by the **April 21, 2009** due date.

Please let us know if you have any questions.

Very truly yours,

Richard F. Jaworski

<div style="float: left;"> RECEIVED COOPER CUNHAM JAN 26 2009 Office Action Summary DOCKET CLERK </div> <div style="float: right; text-align: right;"> BFS Application No. 09/937,976 Examiner JOHN M. WINTER </div>		Applicant(s) ATTIEH, MARK RUSSELL
The MAILING DATE of this communication appears on the cover sheet with the correspondence address --		Art Unit 3685

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 52-54, 57-59, 61, 63, 65 and 67-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 52-54, 57-59, 61, 63, 65 and 67-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

The Applicants amendment filed on October 2, 2008 is hereby acknowledged, Claims 52-54, 57-59, 61, 63, 65 and 67-72 remain pending.

Response to Arguments

1. Applicant's arguments with respect to the pending claim have been fully considered.

The Examiner submits that the claimed feature of “accessing the intermediate database and using the first terminal identifier of the first communication device and obtaining the first account number; using the first account number to communicate a signal that interrogates the first account and determines whether sufficient funds are available in the first account to effect payment;” is disclosed by the prior art reference Randle et al., Randle discloses “The ECTS 1 confirms the customer's BITS card 7 is valid by passing payment information through the hot file 1b, step 72. Next, the ECTS 1 sends an inquiry to the customer's bank 2 “Does customer have funds available to make the purchase?”, step 73. The customer's bank 2 responds YES/NO the funds are available, step 7). If the customer's bank 2 responds “Yes funds are available” the ECTS 1 notifies the merchant company 8 that funds are available and the BITS card purchases authorized, step 75. Finally, the customer 21 is notified via the merchant's web site 3 that the purchase is authorized, step 76).”, The ECTS module is analogous to the claimed terminal and queries the bank as to the availability of funds, it is obvious that the account number or equivalent information would have to be transmitted to the bank in order to determine the result of the query.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 52-54, 57-59, 61, 63, 65 and 67-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heindel et al. (US Patent 6,304,857) in view of Randle et al. (US Patent 5,974,146) and further in view of Picciallo (US Patent 6,044,360).
3. As per claim 52,
Heindel et al. ('857) discloses A method for conducting financial transactions comprising:
providing an intermediate database (Figure 1, element 40)
providing an intermediate database computer for controlling the intermediate database,(Figure 1)
linking a first terminal identifier of a first communication device to a first account number of a first account; storing the linked first terminal identifier and the first account number in the intermediate database within receiving from the first communication device via a communication network, information identifying a the first terminal identifier of the first communication device,(Column 7, lines 16-50 – figure 3)

accessing the intermediate database and using the first terminal identifier of the first communication device to obtain the first account number;(Column 8, lines 23-39)

4. Heindel et al. ('857) does not explicitly disclose

accessing the intermediate database and using the first terminal identifier of the first communication device and obtaining the first account number;
using the first account number to communicate a signal that interrogates the first account and determines whether sufficient funds are available in the first account to effect payment; and when it is determined that sufficient funds are available, debiting the first account and crediting the second account and when it is determined that insufficient funds are available, canceling the transaction. Randle ('146) discloses accessing the intermediate database and using the first terminal identifier of the first communication device and obtaining the first account number; using the first account number to communicate a signal that interrogates the first account and determines whether sufficient funds are available in the first account to effect payment; and when it is determined that sufficient funds are available, debiting the first account and crediting the second account and when it is determined that insufficient funds are available, canceling the transaction. (column 10, lines 31-41-- Applicant(s) are reminded that optional or conditional elements do not narrow the claims because they can always be omitted. See e.g. MPEP §2106 II C: "Language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. [Emphasis in original.] " As a matter of linguistic precision, optional elements do not narrow the claim because they can always be omitted.) It would be obvious to one having ordinary skill in

Art Unit: 3685

the art at the time of the invention to combine Heindel et al. ('857)'s system with Randle

('146)'s teaching in order to limit the prosecution of fraudulent transactions.

5. Heindel et al. ('857) does not explicitly disclose information identifying a second account and an amount requested to be paid from the first account to the second account; Picciallo ('360)discloses information identifying a second account and an amount requested to be paid from the first account to the second account; (column 5 lines 22-61). It would be obvious to one having ordinary skill in the art at the time of the invention to combine Heindel et al. ('857)'s system with Picciallo ('360)'s teaching in order to limit the prosecution of fraudulent transactions.

6. Claims 59, 61 and 67-72 are not patentably distinct from claim 52 and are rejected for at least the same reasons.

7. As per claim 53,
Heindel et al. ('857) discloses the method of claim 52
Heindel et al. ('857) does not explicitly disclose conducting the financial transaction on a real time, on-line basis. Randle ('146) discloses conducting the financial transaction on a real time, on-line basis..(column 7, lines 10-20) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Heindel et al. ('857)'s system with Randle ('146)'s teaching in order to provide an efficient service to the customer.

8. As per claim 54,

Heindel et al. ('857) discloses the method of claim 52

wherein the first account number is a first bank account number, the first account is a first bank account, the second account number is a second bank account number.(Column 7, lines 16-50 – figure 3)

9. As per claim 55,
10. Heindel et al. ('857) discloses the method of claim 52
11. further comprising linking the second terminal identifier to the second account number in the intermediate database.(Column 7, lines 16-50 – figure 3)

12. As per claim 56,

Heindel et al. ('857) discloses the method of claim 52

Official Notice is taken that “wherein the second terminal identifier of a second communication device” is common and well known in prior art in reference to electronic transactions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a terminal identifier as a device identifier in order to uniquely identify a client.

As per claim 57,

Heindel et al. ('857) discloses the method of claim 52.

Official Notice is taken that “the first communication device is a cellular telephone.

” is common and well known in prior art in reference to electronic transactions. It would have

Art Unit: 3685

been obvious to one having ordinary skill in the art at the time the invention was made to utilize a cellular phone in order to create a mobile platform for initiating transactions.

13. As per claim 58,

Heindel et al. ('857) discloses the method of claim 52

further comprising communicating the fact of the transaction to the first communication device.(Column 7, lines 16-50 – figure 3)

As per claim 59,

14. Heindel et al. ('857) discloses the method of claim 56

communicating the fact of the transaction to the second communication device.(Column 7, lines 16-50 – figure 3)

15. As per claim 63,

Heindel et al. ('857) discloses a method for conducting financial transactions according to claim 52,

Heindel et al. ('857) does not explicitly disclose canceling the transaction when it is determined that sufficient funds are not available. Randle ('146) discloses canceling the transaction when it is determined that sufficient funds are not available.(column 10, lines 31-41) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Heindel et al.

('857)'s system with Randle ('146)'s teaching in order to limit the prosecution of fraudulent transactions.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN M. WINTER whose telephone number is (571)272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on (571) 272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3685

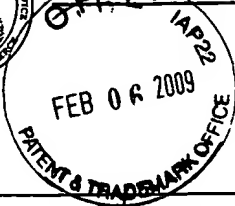
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMW

/Calvin L Hewitt II/
Supervisory Patent Examiner, Art Unit 3685



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09/937,976	10/16/2003	Mark Russell Attieh	0073/65994	8950

7590 01/21/2009
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EXAMINER

WINTER, JOHN M

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3685

MAIL DATE	DELIVERY MODE
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01/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.